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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,601	03/25/2004	Wolfgang Hauer	095309.53282US	5606

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EXAMINER

CHIN, GARY

ART UNIT	PAPER NUMBER
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3661

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/808,601

Applicant(s)

HAUER ET AL.

Examiner

Gary Chin

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date, ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/25/04 & 8/4/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to because there is no descriptive label provided for each of the structural elements 13, 18 and 19 shown in figure 1 currently represented in a form of hollow rectangles. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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As per claim 1, the preamble is directed to a method for performing at least one of fault diagnosis and reprogramming control information in a vehicle control unit. However, there are no clear or positive steps recited in the body of the claim as to how such fault diagnosis and reprogramming control information are being performed. Further, on line 3, it is unclear as to what structural device is the “memory area” associated with. Moreover, the phrase “the diagnosis is taken as a basis for transferring particular data for reprogramming the vehicle” on lines 13-14 is technically unclear. On lines 14-15, “a memory area” should be “said memory area” in order to avoid the antecedent basis problem. Similarly, on line 21, “transferred software” should be “said transferred software”.

As per claim 4, lines 2 and 4, “which interfaces” should be “said interfaces”. On lines 6 and 13, is the recited “data protocol translator” directed to the “data protocol converter”? If so, “said data protocol converter” should be recited instead. On line 10, “a further interface” should be “a third interface”.

As per claim 5, the phrase “programmed specifically for this purpose” is vague and indefinite and should be deleted.

As per claim 6, again, “the data protocol translator” appears to be “said data protocol converter”.

As per claim 7, line 3, the phrase “provided in the means of transport in the manner of an adapter” is technically unclear.

Claims 2-3 and 7 are rejected for incorporating the above errors from their respective parent claims by dependency.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3-4 and 6-8 as best understood in view of the aforementioned 112 deficiencies are rejected under 35 U.S.C. 102(e) as being anticipated by Raichle et al (patent no. 6603394).

As per claims 1, 3-4 and 8, figures 1A, 1B and 1C of the Raichle et al reference clearly disclose the claimed method for performing fault diagnosis as well as the data protocol converter for a vehicle having at least two interfaces including a first interface connectable to a standard vehicle diagnostic interface (items 112 and 116) and a second interface (item 104) to permit message transfer via a diagnostic handset (item 130 or 160 and col. 4, lines 45-48) and a data protocol translator (items 110 and 114) for converting messages from different standards including converting messages from the standard diagnostic interface in the vehicle into messages having a wireless data format so that the messages can be received in the diagnostic handset using the wireless interface (item 134).

As per claim 6, the Raichle et al reference in col. 4, lines 25-27 and 54-57 clearly teaches that the data protocol translator permits transfer of messages from the diagnostic handset (or remote station) to the vehicle as claimed.

As per claim 7, the claimed CAN data bus and J1850 data bus are clearly taught in col. 6, lines 16 and 41-42 of the Raichle et al reference.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raichle et al in view of Klausner et al (patent no. 7046638).

As per claims 2 and 5, the additionally claimed feature of using Bluetooth standard for wirelessly transferring the data is extremely well known in the art at the time the invention was made and clearly taught in figure 3 of the Klausner et al reference. Hence, it would have been readily apparent for one skilled in the art to incorporate such well known Bluetooth standard as taught in Klausner et al into the Raichle et al system so that the transferring of the data can be facilitated.

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8. The additional references are cited to show the related systems, in particular, the PGPUB nos. 2003/0114980 and 2003/0074118 are considered to be most relevant. Applicant(s) should consider them carefully when responding to the current office action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Chin whose telephone number is (571) 272-6959. The examiner can normally be reached on Monday-Friday 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



GARY CHIN
PRIMARY EXAMINER